

## REMARKS

Applicants submitted an Amendment after Final Action on October 2, 2003, to the Final Office Action mailed on June 3, 2003. An Advisory Action was mailed on October 20, 2003 indicating that the proposed amendments would be entered for purposes of an Appeal. Applicants have not filed an Appeal and, therefore, assume and request that the October 2, 2003 Amendment after Final Action will not be entered. Applicants request that this Amendment accompanying the Request for Continued Examination be entered

### Office Action Rejections Summary

Claims 1-17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,148,329 of Meyer ("Meyer").

### Status of Claims

Claims 1-17 are pending in the application. Claims 1 and 13 have been amended to more properly define existing claim limitations. In particular, the preexisting claim limitations in the preambles of claims 1 and 13 have been moved into the body of the claims. The amended claims are supported by the specification. No claims have been added. No new matter has been added.

### Claim Rejections

The Advisory Action states, in part:

Meyer does not explicitly indicate repeatedly generating a revised update message having a next most recent version format base don the update message until a final update message having an upgraded version format is generated. However, Meyer indicates each time the message store is initiated the manager task queues a worker request to check for any messages of an older version, a dmsll, msg by version which provides sequential access to all the messages sorted by the message format version field, will be used by the worker to identify messages in the database that

are not of the "current" version, (see cols. 6-7, lines 66-6). It would have been obvious to a person of ordinary in the art at time the invention was made **to modify the teachings of Meyer with repeatedly generating a revised update message having a next most recent version format based on the update message until a final update message having a upgraded version format is generated.** Such modification would allow the teachings of Meyer to improve the accuracy and the reliability of the method and apparatus for upgrading a database in a redundant environment by release chaining, and provide to a method for delivery of messages having an associated message version number, (see col. 2, lines 60-62).

(Advisory Action, 10/20/03, p. 2.)(emphasis added)

Applicants respectfully submit that the Office Action and the Advisory Action have not made an obviousness rejection using a combination of references. Rather, the Examiner has cited only a single reference: that of Meyer. If the Examiner is relying on facts which are not of record as common knowledge to arrive at applicants' claim limitation noted above, then the **Examiner is respectfully requested to provide evidentiary support of such.** The Examiner's attention is directed to **MPEP 2144.03(C).**

Absent such submission of evidentiary support, applicants submit that the rejection of claims 1-17 under 35 U.S.C. §103(a) based solely on Meyer does not render the claims unpatentable. In particular, as discussed in applicants' previous response, one of skill in the art would not be motivated to modify Meyer in the manner purported by the Examiner. The object of the teachings in Meyer is to redeliver a stored message to a subscriber in a current format and to do so in a manner that *speeds up the redelivery function*. (Meyer, col. 1, lines 35-40; col. 2, lines 35-47; col. 8, line 62). One of skill in the art, facing the problems confronting the inventor of Meyer, would not be motivated to modify Meyer in the manner purported by the Examiner because the chaining of intermediate versions would *slow down* the redelivery function, *contrary to the teachings*

of Meyer. Therefore, applicants respectfully submit that claim 1 is patentable over Meyer.

Moreover, neither the Examiner's "Response to Applicant' Remarks" in the Final Office Action or the comments in the Advisory Action addressed applicants' above noted argument as to why one of skill in the art would not be motivated to modify Meyer in the manner purported by the Examiner. Applicants respectfully request the Examiner to address this argument in the next Office Action if the Examiner continues to advocate the unpatentability of the claims in view of Meyer. Furthermore, if the Examiner is relying on a combination of references or facts that are common knowledge, then applicants respectfully request that the Examiner provide evidentiary support.

Claims 1-17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Meyer. Applicants submit that claims 1-17 are patentable over the cited reference and disagree with the Office Action's assertions. Meyer teaches the redelivery of a stored message to a subscriber in a current format. As such Meyer fails to teach or suggest the claim limitation of "repeatedly generating a revised update message having a next most recent version format based on the update message until a final update message having an upgraded version format is generated," as recited in the claims.

The Office Action cites to 6-7, lines 66-6, respectively, of Meyer for support of its assertion that Meyer teaches the above noted claim limitation. However, this cited passage of Meyer only discusses that the worker request identifies messages in the database that are not of the current version. If messages are found, they are converted to directly to the most recent version. There is no updating of messages to upgraded versions by chaining through intermediate versions taught or suggested in Meyer. Therefore, applicants submit that claims 1-17 are patentable over the cited reference.

In conclusion, applicants respectfully submit that in view of the arguments set forth herein, the applicable rejections have been overcome.


If the Examiner believes a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact Daniel Ovanezian at (408) 720-8300.

If there are any additional charges, please charge our Deposit Account No. 02-2666.

Respectfully submitted,

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Dated: 3/4, 2004

  
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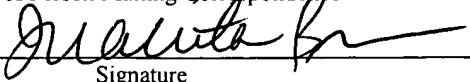
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